

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 921**

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**Introduced by Assembly Member Jones-Sawyer**

February 22, 2013

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An act to ~~amend Sections 8547.1, 8547.2, and 8547.8 of the Government Code~~ *add Chapter 4.7 (commencing with Section 1080) to Part 3 of Division 2 of the Labor Code*, to amend Sections 241, 241.4, and 243 of the Penal Code, and to amend Sections 10601.2 and 10850.4 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

AB 921, as amended, Jones-Sawyer. Child welfare services.

The California Whistleblower Protection Act prohibits an employee, as defined to include specified employees in the executive and judicial branches of state government, from using his or her official authority or influence for the purpose of intimidating, threatening, coercing, or commanding any person for the purpose of interfering with his or her right to make a protected disclosure of improper governmental activity. The act requires the State Auditor to investigate and report on improper governmental activities, as specified. The act authorizes an employee or applicant for employment who files a written complaint alleging reprisal, retaliation, or similar prohibited acts to also file a copy of the written complaint with the State Personnel Board. The act provides that any person who intentionally engages in acts of reprisal, retaliation, or similar prohibited acts against a state employee or applicant for state employment for having made a protected disclosure, is subject to punishment for a misdemeanor and liable in an action for civil damages brought by the injured party.

~~This bill, in addition, would provide that the act applies to an employee of a county child welfare agency.~~

*This bill would require, by January 1, 2015, the board of directors of a county to adopt an ordinance that would prohibit the taking of specified actions toward a social worker who is employed by a county child welfare agency, including retaliation against the employee for disclosing or reporting information to the public, an appointed or elected official, or an employee or other official of a governmental, including law enforcement, agency, where the social worker has reasonable cause to believe that the information discloses a policy or practice that endangers the health or well-being of a child, is a violation of a state or federal statute, regulation, or policy; or is a violation of a county ordinance or policy. The bill would provide that a county is liable for a specified civil penalty for violations of the prohibitions of the ordinance adopted pursuant to this bill.*

*The bill would also subject to civil liability and a misdemeanor penalty a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of a county child welfare agency who discloses or reports information as described in the above provisions.*

~~By expanding the scope of crime under the act, creating new crimes,~~ this bill would impose a state-mandated local program.

Existing law establishes the crime of assault against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the offense to include social workers employed by a county in child welfare, as defined, while engaged in the performance of their duties, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law establishes the crime of assault against a peace officer engaged in the performance of his or her duties as a member of a police department of a school district and the person committing the offense knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties. The offense is punishable by imprisonment in the county jail not exceeding one year or by imprisonment pursuant to specified existing law.

This bill would expand the scope of the offense to include social workers employed by a county in child welfare, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law establishes the crime of battery against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable, except when the victim sustains an injury, by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the battery offense described above to include a social worker employed by a county in child welfare, as defined, while engaged in the performance of his or her duty, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law requires the department to establish the California Child and Family Service Review System, in order to review all county child welfare systems.

This bill would, in relation to these reviews, require each county to consult with specified stakeholders in developing the county self-assessments and county improvement plans, or any subsequent county self-assessments, as specified. This bill would also require the county improvement plans to include a separately titled provision that lists and provides the rationale for proposed operational improvements that may be implemented at a cost savings to the county or within existing resources. By increasing duties of county officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) This act shall be known as the Child Welfare  
2 Social Worker Empowerment and Foster Child Protection Act.

3 (b) The Legislature finds and declares that, while California  
4 foster children are in foster care, they are uniquely dependent upon  
5 the lawful, efficient, and competent delivery of state and local  
6 government services and implementation of state and federal law.

7 (c) The Legislature further finds and declares that the special  
8 and uniquely vulnerable status of foster children warrants extending  
9 whistleblower protections for state employees to county child  
10 welfare social workers to ensure that each worker, without fear of  
11 retaliation, can advocate for policies that benefit every child and  
12 publicly participate in discussions about each child's wellbeing.

13 (d) The Legislature further finds and declares that county child  
14 welfare social workers who implement state and federal policy  
15 related to the delivery of services and implementation of programs  
16 benefitting foster children should have an avenue to suggest  
17 cost-saving efficiencies in the delivery of services to foster  
18 children, in a fashion that is transparent and accountable to the  
19 public.

20 SEC. 2. Chapter 4.7 (commencing with Section 4080) is added  
21 to Part 3 of Division 2 of the Labor Code, to read:

22  
23 CHAPTER 4.7. COUNTY CHILD WELFARE SOCIAL WORKERS  
24

25 4080. (a) By January 1, 2015, the board of supervisors of a  
26 county shall adopt an ordinance that prohibits the following actions  
27 toward a social worker who is employed by a county child welfare  
28 agency:

29 (1) Making, adopting, or enforcing any rule, regulation, or  
30 policy to prevent the employee from disclosing or reporting  
31 information to the public, an appointed or elected official, or an  
32 employee or other official of a governmental, including law  
33 enforcement, agency, where the social worker has reasonable  
34 cause to believe that the information discloses a policy or practice  
35 that endangers the health or well-being of a child, is a violation

1 of a state or federal statute, regulation, or policy; or is a violation  
2 of a county ordinance or policy.

3 (2) Retaliating against the employee for disclosing or reporting  
4 information to the public, an appointed or elected official, or an  
5 employee or other official of a governmental, including law  
6 enforcement, agency, where the social worker has reasonable  
7 cause to believe that the information discloses a policy or practice  
8 that endangers the health or well-being of a child, is a violation  
9 of a state or federal statute, regulation, or policy; or is a violation  
10 of a county ordinance or policy.

11 (3) Retaliating against the employee for refusing to participate  
12 in an activity that would result in endangering the health or  
13 well-being of a child, is a violation of a state or federal statute,  
14 regulation, or policy; or is a violation of a county ordinance or  
15 policy.

16 (b) In addition to other penalties or damages, a county that  
17 adopts an ordinance described in subdivision (a) shall be liable  
18 for a civil penalty not exceeding ten thousand dollars (\$10,000)  
19 for each violation of this ordinance, and the employee's reasonable  
20 attorney's fees and costs.

21 (c) In a civil action or administrative proceeding brought  
22 pursuant to the ordinance, once it has been demonstrated by a  
23 preponderance of the evidence that an activity proscribed by this  
24 section was a contributing factor in the alleged prohibited action  
25 against the employee, the employer shall have the burden of proof  
26 to demonstrate by clear and convincing evidence that the alleged  
27 action would have occurred for legitimate, independent reasons  
28 even if the employee had not engaged in activities protected by  
29 this section.

30 (d) Nothing in this section shall be construed to authorize a  
31 social worker employed by a county child welfare agency to  
32 disclose the identity of a child or the case file.

33 (e) For purposes of this section and Section 4081, "county child  
34 welfare agency" includes a county welfare department, child  
35 welfare department, and any other county agency that employs  
36 social workers and is responsible for the placement and supervision  
37 of children and youth in foster care.

38 4081. (a) Any person who intentionally engages in acts of  
39 reprisal, retaliation, threats, coercion, or similar acts against an  
40 employee of a county child welfare agency in violation of an

1 ordinance adopted pursuant to Section 4080 is subject to a fine  
2 not to exceed ten thousand dollars (\$10,000) and imprisonment  
3 in the county jail for a period not to exceed one year. Pursuant to  
4 Section 19683, any state civil service employee who intentionally  
5 engages in that conduct shall be disciplined by adverse action as  
6 provided by Section 19572.

7 (b) In addition to any other penalty provided by law, a person  
8 who intentionally engages in acts of reprisal, retaliation, threats,  
9 coercion, or similar acts against an employee of a county child  
10 welfare agency for a violation of an ordinance adopted pursuant  
11 to Section 4080 shall be liable in a civil action for damages brought  
12 against him or her by the injured party. Punitive damages may be  
13 awarded by the court where the acts of the party alleged to violate  
14 Section 4080 are proven to be malicious. Where liability has been  
15 established, the injured party shall also be entitled to reasonable  
16 attorney's fees as provided by law.

17 (c) This section shall not be construed to prevent an appointing  
18 power, manager, or supervisor from taking, directing others to  
19 take, recommending, or approving any personnel action or from  
20 taking or failing to take a personnel action with respect to any  
21 employee of a county child welfare agency if the appointing power,  
22 manager, or supervisor reasonably believes any action or inaction  
23 is justified on the basis of evidence separate and apart from the  
24 fact that the person has made a disclosure protected pursuant to  
25 an ordinance adopted pursuant to Section 4080.

26 (d) Nothing in this chapter or ordinance adopted pursuant to  
27 this chapter shall be construed to diminish the rights, privileges,  
28 or remedies of any employee under any other federal or state law  
29 or under any employment contract or collective bargaining  
30 agreement.

31 ~~SEC. 2. Section 8547.1 of the Government Code is amended~~  
32 ~~to read:~~

33 ~~8547.1. The Legislature finds and declares that state employees,~~  
34 ~~and county child welfare employees should be free to report waste,~~  
35 ~~fraud, abuse of authority, violation of law, or threat to public health~~  
36 ~~without fear of retribution. The Legislature further finds and~~  
37 ~~declares that public servants best serve the citizenry when they~~  
38 ~~can be candid and honest without reservation in conducting the~~  
39 ~~people's business.~~

1 ~~SEC. 3. Section 8547.2 of the Government Code is amended to~~  
2 ~~read:~~

3 ~~8547.2. For the purposes of this article, the following terms~~  
4 ~~have the following meanings:~~

5 ~~(a) “County child welfare agency” means a county welfare~~  
6 ~~department or child welfare department or any other county agency~~  
7 ~~that employs social workers and is responsible for the placement~~  
8 ~~and supervision of children and youth in foster care.~~

9 ~~(b) “Employee” means an individual appointed by the Governor,~~  
10 ~~or employed or holding office in a state agency as defined by~~  
11 ~~Section 11000, including, for purposes of Sections 8547.3 to~~  
12 ~~8547.7, inclusive, an employee of the California State University,~~  
13 ~~or an individual appointed by the Legislature to a state board or~~  
14 ~~commission and who is not a Member or employee of the~~  
15 ~~Legislature. In addition, “employee” means a person employed by~~  
16 ~~the Supreme Court, a court of appeal, a superior court, or the~~  
17 ~~Administrative Office of the Courts for the purposes of Sections~~  
18 ~~8547.3 to 8547.7, inclusive, and Section 8547.13, except for those~~  
19 ~~provisions of Section 8547.4 concerning notice of adverse action~~  
20 ~~and the State Personnel Board. “Employee” also means a person~~  
21 ~~employed as a social worker by a county child welfare agency.~~  
22 ~~“Employee” includes a former employee who met the criteria of~~  
23 ~~this subdivision during his or her employment.~~

24 ~~(c) “Illegal order” means a directive to violate or assist in~~  
25 ~~violating a federal, state, or local law, rule, or regulation, or an~~  
26 ~~order to work or cause others to work in conditions outside of their~~  
27 ~~line of duty that would unreasonably threaten the health or safety~~  
28 ~~of employees or the public.~~

29 ~~(d) “Improper governmental activity” means an activity by a~~  
30 ~~state agency or county child welfare agency or by an employee~~  
31 ~~that is undertaken in the performance of the employee’s duties,~~  
32 ~~undertaken inside a state office or county child welfare agency~~  
33 ~~office, or, if undertaken outside a state office or county child~~  
34 ~~welfare agency office by the employee, directly relates to state~~  
35 ~~government or a county child welfare agency, whether or not that~~  
36 ~~activity is within the scope of his or her employment, and that (1)~~  
37 ~~is in violation of any state or federal law or regulation, including,~~  
38 ~~but not limited to, corruption, malfeasance, bribery, theft of~~  
39 ~~government property, fraudulent claims, fraud, coercion,~~  
40 ~~conversion, malicious prosecution, misuse of government property,~~

~~or willful omission to perform duty, (2) is in violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure mandated by the State Administrative Manual or State Contracting Manual, or (3) is economically wasteful, involves gross misconduct, incompetency, or inefficiency, or, in the case of social workers employed by a county child welfare agency, endangers the health or well-being of children. For purposes of Sections 8547.4, 8547.5, 8547.7, 8547.10, and 8547.11, “improper governmental activity” includes any activity by the University of California or by an employee, including an officer or faculty member, who otherwise meets the criteria of this subdivision. For purposes of Sections 8547.4, 8547.5, and 8547.13, “improper governmental activity” includes any activity by the Supreme Court, a court of appeal, a superior court, or the Administrative Office of the Courts, or by an employee thereof, who otherwise meets the criteria of this subdivision.~~

~~(e) “Person” means an individual, corporation, trust, association, a state or local government, or an agency or instrumentality of any of the foregoing.~~

~~(f) “Protected disclosure” means a good faith communication, including a communication based on, or when carrying out, job duties, that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity, or (2) a condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition. Protected disclosure specifically includes a good faith communication to the California State Auditor’s Office alleging an improper governmental activity and any evidence delivered to the California State Auditor’s Office in support of the allegation. “Protected disclosure” also includes, but is not limited to, a complaint made to the Commission on Judicial Performance.~~

~~(g) “State agency” is defined by Section 11000. “State agency” includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive, and the California State University for purposes of Sections 8547.3 to 8547.7, inclusive. Sections 8547.3 to 8547.7, inclusive, shall apply to the Supreme Court, the courts of appeal, the superior courts, and the Administrative Office of the Courts in the same manner as they apply to a state agency.~~



1 SEC. 4. ~~Section 8547.8 of the Government Code is amended to~~  
2 ~~read:~~

3 ~~8547.8. (a) A state employee or applicant for state employment~~  
4 ~~who files a written complaint with his or her supervisor, manager,~~  
5 ~~or the appointing power alleging actual or attempted acts of~~  
6 ~~reprisal, retaliation, threats, coercion, or similar improper acts~~  
7 ~~prohibited by Section 8547.3, may also file a copy of the written~~  
8 ~~complaint with the State Personnel Board, together with a sworn~~  
9 ~~statement that the contents of the written complaint are true, or are~~  
10 ~~believed by the affiant to be true, under penalty of perjury. The~~  
11 ~~complaint filed with the board, shall be filed within 12 months of~~  
12 ~~the most recent act of reprisal complained about.~~

13 ~~(b) Any person who intentionally engages in acts of reprisal,~~  
14 ~~retaliation, threats, coercion, or similar acts against a state~~  
15 ~~employee or applicant for state employment or employee of a~~  
16 ~~county child welfare agency for having made a protected~~  
17 ~~disclosure, is subject to a fine not to exceed ten thousand dollars~~  
18 ~~(\$10,000) and imprisonment in the county jail for a period not to~~  
19 ~~exceed one year. Pursuant to Section 19683, any state civil service~~  
20 ~~employee who intentionally engages in that conduct shall be~~  
21 ~~disciplined by adverse action as provided by Section 19572.~~

22 ~~(c) In addition to all other penalties provided by law, any person~~  
23 ~~who intentionally engages in acts of reprisal, retaliation, threats,~~  
24 ~~coercion, or similar acts against a state employee or applicant for~~  
25 ~~state employment or employee of a county child welfare agency~~  
26 ~~for having made a protected disclosure shall be liable in an action~~  
27 ~~for damages brought against him or her by the injured party.~~  
28 ~~Punitive damages may be awarded by the court where the acts of~~  
29 ~~the offending party are proven to be malicious. Where liability has~~  
30 ~~been established, the injured party shall also be entitled to~~  
31 ~~reasonable attorney's fees as provided by law. However, except~~  
32 ~~for county child welfare agency employees, any action for damages~~  
33 ~~shall not be available to the injured party unless the injured party~~  
34 ~~has first filed a complaint with the State Personnel Board pursuant~~  
35 ~~to subdivision (a), and the board has issued, or failed to issue,~~  
36 ~~findings pursuant to Section 19683.~~

37 ~~(d) This section is not intended to prevent an appointing power,~~  
38 ~~manager, or supervisor from taking, directing others to take,~~  
39 ~~recommending, or approving any personnel action or from taking~~  
40 ~~or failing to take a personnel action with respect to any state~~

1 employee or applicant for state employment or any employee of  
2 a county child welfare agency if the appointing power, manager,  
3 or supervisor reasonably believes any action or inaction is justified  
4 on the basis of evidence separate and apart from the fact that the  
5 person has made a protected disclosure as defined in subdivision  
6 (f) of Section 8547.2.

7 (e) ~~In any civil action or administrative proceeding, once it has~~  
8 ~~been demonstrated by a preponderance of evidence that an activity~~  
9 ~~protected by this article was a contributing factor in the alleged~~  
10 ~~retaliation against a former, current, or prospective employee, the~~  
11 ~~burden of proof shall be on the supervisor, manager, or appointing~~  
12 ~~power to demonstrate by clear and convincing evidence that the~~  
13 ~~alleged action would have occurred for legitimate, independent~~  
14 ~~reasons even if the employee had not engaged in protected~~  
15 ~~disclosures or refused an illegal order. If the supervisor, manager,~~  
16 ~~or appointing power fails to meet this burden of proof in an adverse~~  
17 ~~action against the employee in any administrative review,~~  
18 ~~challenge, or adjudication in which retaliation has been~~  
19 ~~demonstrated to be a contributing factor, the employee shall have~~  
20 ~~a complete affirmative defense in the adverse action.~~

21 (f) ~~Nothing in this article shall be deemed to diminish the rights,~~  
22 ~~privileges, or remedies of any employee under any other federal~~  
23 ~~or state law or under any employment contract or collective~~  
24 ~~bargaining agreement.~~

25 ~~SEC. 5.~~

26 *SEC. 3.* Section 241 of the Penal Code is amended to read:

27 241. (a) An assault is punishable by a fine not exceeding one  
28 thousand dollars (\$1,000), or by imprisonment in the county jail  
29 not exceeding six months, or by both the fine and imprisonment.

30 (b) When an assault is committed against the person of a parking  
31 control officer engaged in the performance of his or her duties,  
32 and the person committing the offense knows or reasonably should  
33 know that the victim is a parking control officer, the assault is  
34 punishable by a fine not exceeding two thousand dollars (\$2,000),  
35 or by imprisonment in the county jail not exceeding six months,  
36 or by both the fine and imprisonment.

37 (c) When an assault is committed against the person of a peace  
38 officer, firefighter, emergency medical technician, mobile intensive  
39 care paramedic, lifeguard, process server, traffic officer, code  
40 enforcement officer, animal control officer, social worker employed

1 by a county in child welfare, or search and rescue member engaged  
2 in the performance of his or her duties, or a physician or nurse  
3 engaged in rendering emergency medical care outside a hospital,  
4 clinic, or other health care facility, and the person committing the  
5 offense knows or reasonably should know that the victim is a peace  
6 officer, firefighter, emergency medical technician, mobile intensive  
7 care paramedic, lifeguard, process server, traffic officer, code  
8 enforcement officer, animal control officer, social worker employed  
9 by a county in child welfare, or search and rescue member engaged  
10 in the performance of his or her duties, or a physician or nurse  
11 engaged in rendering emergency medical care, the assault is  
12 punishable by a fine not exceeding two thousand dollars (\$2,000),  
13 or by imprisonment in a county jail not exceeding one year, or by  
14 both the fine and imprisonment.

15 (d) As used in this section, the following definitions apply:

16 (1) Peace officer means any person defined in Chapter 4.5  
17 (commencing with Section 830) of Title 3 of Part 2.

18 (2) "Emergency medical technician" means a person possessing  
19 a valid course completion certificate from a program approved by  
20 the State Department of Health Care Services for the medical  
21 training and education of ambulance personnel, and who meets  
22 the standards of Division 2.5 (commencing with Section 1797) of  
23 the Health and Safety Code.

24 (3) "Mobile intensive care paramedic" refers to those persons  
25 who meet the standards set forth in Division 2.5 (commencing  
26 with Section 1797) of the Health and Safety Code.

27 (4) "Nurse" means a person who meets the standards of Division  
28 2.5 (commencing with Section 1797) of the Health and Safety  
29 Code.

30 (5) "Lifeguard" means a person who is:

31 (A) Employed as a lifeguard by the state, a county, or a city,  
32 and is designated by local ordinance as a public officer who has a  
33 duty and responsibility to enforce local ordinances and  
34 misdemeanors through the issuance of citations.

35 (B) Wearing distinctive clothing which includes written  
36 identification of the person's status as a lifeguard and which clearly  
37 identifies the employing organization.

38 (6) "Process server" means any person who meets the standards  
39 or is expressly exempt from the standards set forth in Section 22350  
40 of the Business and Professions Code.

1 (7) “Traffic officer” means any person employed by a county  
2 or city to monitor and enforce state laws and local ordinances  
3 relating to parking and the operation of vehicles.

4 (8) “Animal control officer” means any person employed by a  
5 county or city for purposes of enforcing animal control laws or  
6 regulations.

7 (9) (A) “Code enforcement officer” means any person who is  
8 not described in Chapter 4.5 (commencing with Section 830) of  
9 Title 3 of Part 2 and who is employed by any governmental  
10 subdivision, public or quasi-public corporation, public agency,  
11 public service corporation, any town, city, county, or municipal  
12 corporation, whether incorporated or chartered, that has  
13 enforcement authority for health, safety, and welfare requirements,  
14 and whose duties include enforcement of any statute, rules,  
15 regulations, or standards, and who is authorized to issue citations,  
16 or file formal complaints.

17 (B) “Code enforcement officer” also includes any person who  
18 is employed by the Department of Housing and Community  
19 Development who has enforcement authority for health, safety,  
20 and welfare requirements pursuant to the Employee Housing Act  
21 (Part 1 (commencing with Section 17000) of Division 13 of the  
22 Health and Safety Code); the State Housing Law (Part 1.5  
23 (commencing with Section 17910) of Division 13 of the Health  
24 and Safety Code); the Manufactured Housing Act of 1980 (Part 2  
25 (commencing with Section 18000) of Division 13 of the Health  
26 and Safety Code); the Mobilehome Parks Act (Part 2.1  
27 (commencing with Section 18200) of Division 13 of the Health  
28 and Safety Code); and the Special Occupancy Parks Act (Part 2.3  
29 (commencing with Section 18860) of Division 13 of the Health  
30 and Safety Code).

31 (10) “Parking control officer” means any person employed by  
32 a city, county, or city and county, to monitor and enforce state  
33 laws and local ordinances relating to parking.

34 (11) “Search and rescue member” means any person who is part  
35 of an organized search and rescue team managed by a governmental  
36 agency.

37 (12) “Social worker employed by a county in child welfare”  
38 means a social worker employed by a county welfare department  
39 or child welfare department or any other county agency that

1 employs social workers and is responsible for the placement and  
2 supervision of children and youth in foster care.

3 ~~SEC. 6.~~

4 *SEC. 4.* Section 241.4 of the Penal Code is amended to read:

5 241.4. An assault is punishable by fine not exceeding one  
6 thousand dollars (\$1,000), or by imprisonment in the county jail  
7 not exceeding six months, or by both. When the assault is  
8 committed against the person of a peace officer engaged in the  
9 performance of his or her duties as a member of a police  
10 department of a school district pursuant to Section 38000 of the  
11 Education Code, or a social worker employed by a county in child  
12 welfare as defined in paragraph (12) of subdivision (d) of Section  
13 241, and the person committing the offense knows or reasonably  
14 should know that the victim is a peace officer engaged in the  
15 performance of his or her duties or a social worker employed by  
16 a county in child welfare, the offense shall be punished by  
17 imprisonment in the county jail not exceeding one year or by  
18 imprisonment pursuant to subdivision (h) of Section 1170.

19 ~~SEC. 7.~~

20 *SEC. 5.* Section 243 of the Penal Code is amended to read:

21 243. (a) A battery is punishable by a fine not exceeding two  
22 thousand dollars (\$2,000), or by imprisonment in a county jail not  
23 exceeding six months, or by both that fine and imprisonment.

24 (b) When a battery is committed against the person of a peace  
25 officer, custodial officer, firefighter, emergency medical technician,  
26 lifeguard, security officer, custody assistant, process server, traffic  
27 officer, code enforcement officer, animal control officer, social  
28 worker employed by a county in child welfare, or search and rescue  
29 member engaged in the performance of his or her duties, whether  
30 on or off duty, including when the peace officer is in a police  
31 uniform and is concurrently performing the duties required of him  
32 or her as a peace officer while also employed in a private capacity  
33 as a part-time or casual private security guard or patrolman, or a  
34 nonsworn employee of a probation department engaged in the  
35 performance of his or her duties, whether on or off duty, or a  
36 physician or nurse engaged in rendering emergency medical care  
37 outside a hospital, clinic, or other health care facility, and the  
38 person committing the offense knows or reasonably should know  
39 that the victim is a peace officer, custodial officer, firefighter,  
40 emergency medical technician, lifeguard, security officer, custody

1 assistant, process server, traffic officer, code enforcement officer,  
2 animal control officer, social worker employed by a county in  
3 child welfare, or search and rescue member engaged in the  
4 performance of his or her duties, nonsworn employee of a probation  
5 department, or a physician or nurse engaged in rendering  
6 emergency medical care, the battery is punishable by a fine not  
7 exceeding two thousand dollars (\$2,000), or by imprisonment in  
8 a county jail not exceeding one year, or by both that fine and  
9 imprisonment.

10 (c) (1) When a battery is committed against a custodial officer,  
11 firefighter, emergency medical technician, lifeguard, process server,  
12 traffic officer, animal control officer, or social worker employed  
13 by a county in child welfare, engaged in the performance of his or  
14 her duties, whether on or off duty, or a nonsworn employee of a  
15 probation department engaged in the performance of his or her  
16 duties, whether on or off duty, or a physician or nurse engaged in  
17 rendering emergency medical care outside a hospital, clinic, or  
18 other health care facility, and the person committing the offense  
19 knows or reasonably should know that the victim is a nonsworn  
20 employee of a probation department, custodial officer, firefighter,  
21 emergency medical technician, lifeguard, process server, traffic  
22 officer, animal control officer, or social worker employed by a  
23 county in child welfare, engaged in the performance of his or her  
24 duties, or a physician or nurse engaged in rendering emergency  
25 medical care, and an injury is inflicted on that victim, the battery  
26 is punishable by a fine of not more than two thousand dollars  
27 (\$2,000), by imprisonment in a county jail not exceeding one year,  
28 or by both that fine and imprisonment, or by imprisonment pursuant  
29 to subdivision (h) of Section 1170 for 16 months, or two or three  
30 years.

31 (2) When the battery specified in paragraph (1) is committed  
32 against a peace officer engaged in the performance of his or her  
33 duties, whether on or off duty, including when the peace officer  
34 is in a police uniform and is concurrently performing the duties  
35 required of him or her as a peace officer while also employed in  
36 a private capacity as a part-time or casual private security guard  
37 or patrolman and the person committing the offense knows or  
38 reasonably should know that the victim is a peace officer engaged  
39 in the performance of his or her duties, the battery is punishable  
40 by a fine of not more than ten thousand dollars (\$10,000), or by

1 imprisonment in a county jail not exceeding one year or pursuant  
2 to subdivision (h) of Section 1170 for 16 months, or two or three  
3 years, or by both that fine and imprisonment.

4 (d) When a battery is committed against any person and serious  
5 bodily injury is inflicted on the person, the battery is punishable  
6 by imprisonment in a county jail not exceeding one year or  
7 imprisonment pursuant to subdivision (h) of Section 1170 for two,  
8 three, or four years.

9 (e) (1) When a battery is committed against a spouse, a person  
10 with whom the defendant is cohabiting, a person who is the parent  
11 of the defendant's child, former spouse, fiancé, or fiancée, or a  
12 person with whom the defendant currently has, or has previously  
13 had, a dating or engagement relationship, the battery is punishable  
14 by a fine not exceeding two thousand dollars (\$2,000), or by  
15 imprisonment in a county jail for a period of not more than one  
16 year, or by both that fine and imprisonment. If probation is granted,  
17 or the execution or imposition of the sentence is suspended, it shall  
18 be a condition thereof that the defendant participate in, for no less  
19 than one year, and successfully complete, a batterer's treatment  
20 program, as described in Section 1203.097, or if none is available,  
21 another appropriate counseling program designated by the court.  
22 However, this provision shall not be construed as requiring a city,  
23 a county, or a city and county to provide a new program or higher  
24 level of service as contemplated by Section 6 of Article XIII B of  
25 the California Constitution.

26 (2) Upon conviction of a violation of this subdivision, if  
27 probation is granted, the conditions of probation may include, in  
28 lieu of a fine, one or both of the following requirements:

29 (A) That the defendant make payments to a battered women's  
30 shelter, up to a maximum of five thousand dollars (\$5,000).

31 (B) That the defendant reimburse the victim for reasonable costs  
32 of counseling and other reasonable expenses that the court finds  
33 are the direct result of the defendant's offense.

34 For any order to pay a fine, make payments to a battered  
35 women's shelter, or pay restitution as a condition of probation  
36 under this subdivision, the court shall make a determination of the  
37 defendant's ability to pay. In no event shall any order to make  
38 payments to a battered women's shelter be made if it would impair  
39 the ability of the defendant to pay direct restitution to the victim  
40 or court-ordered child support. If the injury to a married person is

1 caused in whole or in part by the criminal acts of his or her spouse  
2 in violation of this section, the community property shall not be  
3 used to discharge the liability of the offending spouse for restitution  
4 to the injured spouse, required by Section 1203.04, as operative  
5 on or before August 2, 1995, or Section 1202.4, or to a shelter for  
6 costs with regard to the injured spouse and dependents, required  
7 by this section, until all separate property of the offending spouse  
8 is exhausted.

9 (3) Upon conviction of a violation of this subdivision, if  
10 probation is granted or the execution or imposition of the sentence  
11 is suspended and the person has been previously convicted of a  
12 violation of this subdivision and sentenced under paragraph (1),  
13 the person shall be imprisoned for not less than 48 hours in addition  
14 to the conditions in paragraph (1). However, the court, upon a  
15 showing of good cause, may elect not to impose the mandatory  
16 minimum imprisonment as required by this subdivision and may,  
17 under these circumstances, grant probation or order the suspension  
18 of the execution or imposition of the sentence.

19 (4) The Legislature finds and declares that these specified crimes  
20 merit special consideration when imposing a sentence so as to  
21 display society's condemnation for these crimes of violence upon  
22 victims with whom a close relationship has been formed.

23 (5) If a peace officer makes an arrest for a violation of paragraph  
24 (1) of subdivision (e) of this section, the peace officer is not  
25 required to inform the victim of his or her right to make a citizen's  
26 arrest pursuant to subdivision (b) of Section 836.

27 (f) As used in this section:

28 (1) "Peace officer" means any person defined in Chapter 4.5  
29 (commencing with Section 830) of Title 3 of Part 2.

30 (2) "Emergency medical technician" means a person who is  
31 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses  
32 a valid certificate or license in accordance with the standards of  
33 Division 2.5 (commencing with Section 1797) of the Health and  
34 Safety Code.

35 (3) "Nurse" means a person who meets the standards of Division  
36 2.5 (commencing with Section 1797) of the Health and Safety  
37 Code.

38 (4) "Serious bodily injury" means a serious impairment of  
39 physical condition, including, but not limited to, the following:  
40 loss of consciousness; concussion; bone fracture; protracted loss



1 or impairment of function of any bodily member or organ; a wound  
2 requiring extensive suturing; and serious disfigurement.

3 (5) “Injury” means any physical injury which requires  
4 professional medical treatment.

5 (6) “Custodial officer” means any person who has the  
6 responsibilities and duties described in Section 831 and who is  
7 employed by a law enforcement agency of any city or county or  
8 who performs those duties as a volunteer.

9 (7) “Lifeguard” means a person defined in paragraph (5) of  
10 subdivision (d) of Section 241.

11 (8) “Traffic officer” means any person employed by a city,  
12 county, or city and county to monitor and enforce state laws and  
13 local ordinances relating to parking and the operation of vehicles.

14 (9) “Animal control officer” means any person employed by a  
15 city, county, or city and county for purposes of enforcing animal  
16 control laws or regulations.

17 (10) “Dating relationship” means frequent, intimate associations  
18 primarily characterized by the expectation of affectional or sexual  
19 involvement independent of financial considerations.

20 (11) (A) “Code enforcement officer” means any person who  
21 is not described in Chapter 4.5 (commencing with Section 830) of  
22 Title 3 of Part 2 and who is employed by any governmental  
23 subdivision, public or quasi-public corporation, public agency,  
24 public service corporation, any town, city, county, or municipal  
25 corporation, whether incorporated or chartered, who has  
26 enforcement authority for health, safety, and welfare requirements,  
27 and whose duties include enforcement of any statute, rules,  
28 regulations, or standards, and who is authorized to issue citations,  
29 or file formal complaints.

30 (B) “Code enforcement officer” also includes any person who  
31 is employed by the Department of Housing and Community  
32 Development who has enforcement authority for health, safety,  
33 and welfare requirements pursuant to the Employee Housing Act  
34 (Part 1 (commencing with Section 17000) of Division 13 of the  
35 Health and Safety Code); the State Housing Law (Part 1.5  
36 (commencing with Section 17910) of Division 13 of the Health  
37 and Safety Code); the Manufactured Housing Act of 1980 (Part 2  
38 (commencing with Section 18000) of Division 13 of the Health  
39 and Safety Code); the Mobilehome Parks Act (Part 2.1  
40 (commencing with Section 18200) of Division 13 of the Health

1 and Safety Code); and the Special Occupancy Parks Act (Part 2.3  
2 (commencing with Section 18860) of Division 13 of the Health  
3 and Safety Code).

4 (12) "Custody assistant" means any person who has the  
5 responsibilities and duties described in Section 831.7 and who is  
6 employed by a law enforcement agency of any city, county, or city  
7 and county.

8 (13) "Search and rescue member" means any person who is part  
9 of an organized search and rescue team managed by a government  
10 agency.

11 (14) "Security officer" means any person who has the  
12 responsibilities and duties described in Section 831.4 and who is  
13 employed by a law enforcement agency of any city, county, or city  
14 and county.

15 (15) "Social worker employed by a county in child welfare"  
16 means a social worker employed by a county welfare department  
17 or child welfare department or any other county agency that  
18 employs social workers and is responsible for the placement and  
19 supervision of children and youth in foster care.

20 (g) It is the intent of the Legislature by amendments to this  
21 section at the 1981–82 and 1983–84 Regular Sessions to abrogate  
22 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and  
23 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior  
24 judicial interpretations of this section as they relate to criminal  
25 sanctions for battery on peace officers who are employed, on a  
26 part-time or casual basis, while wearing a police uniform as private  
27 security guards or patrolmen and to allow the exercise of peace  
28 officer powers concurrently with that employment.

29 ~~SEC. 8.~~

30 *SEC. 6.* Section 10601.2 of the Welfare and Institutions Code  
31 is amended to read:

32 10601.2. (a) The State Department of Social Services shall  
33 establish, by April 1, 2003, the California Child and Family Service  
34 Review System, in order to review all county child welfare systems.  
35 These reviews shall cover child protective services, foster care,  
36 adoption, family preservation, family support, and independent  
37 living.

38 (b) Child and family service reviews shall maximize compliance  
39 with the federal regulations for the receipt of money from Subtitle  
40 E (commencing with Section 470) of Title IV of the federal Social

1 Security Act (42 U.S.C. Sec. 670 and following) and ensure  
2 compliance with state plan requirements set forth in Subtitle B  
3 (commencing with Section 421) of Title IV of the federal Social  
4 Security Act (42 U.S.C. Sec. 621 and following).

5 (c) (1) (A) The California Health and Human Services Agency  
6 shall convene a workgroup comprised of representatives of the  
7 Judicial Council, the State Department of Social Services, the State  
8 Department of Health Care Services, the State Department of  
9 Education, the State Department of Justice, any other state  
10 departments or agencies the California Health and Human Services  
11 Agency deems necessary, the County Welfare Directors  
12 Association, the California State Association of Counties, the Chief  
13 Probation Officers of California, the California Youth Connection,  
14 and representatives of California tribes, interested child advocacy  
15 organizations, researchers, and foster parent organizations. The  
16 workgroup shall establish a workplan by which child and family  
17 service reviews shall be conducted pursuant to this section,  
18 including a process for qualitative peer reviews of case information.

19 (B) At a minimum, in establishing the workplan, the workgroup  
20 shall consider any existing federal program improvement plans  
21 entered into by the state pursuant to federal regulations, the  
22 outcome indicators to be measured, compliance thresholds for each  
23 indicator, timelines for implementation, county review cycles,  
24 uniform processes, procedures and review instruments to be used,  
25 a corrective action process, and any funding or staffing increases  
26 needed to implement the requirements of this section. The agency  
27 shall broadly consider collaboration with all entities to allow the  
28 adequate exchange of information and coordination of efforts to  
29 improve outcomes for foster youth and families.

30 (2) In developing county self-assessments and county  
31 improvement plans pursuant to this section, or any subsequent  
32 county self-assessments pursuant to this section, each county shall  
33 consult with stakeholders, including, but not limited to, county  
34 child welfare agencies and probation agency staff at all levels,  
35 current and former foster children, children's attorneys, and foster  
36 care providers. The county shall consult with at least one county  
37 child welfare worker named by the bargaining unit representing  
38 children's social workers.

39 (d) (1) The California Child and Family Service Review System  
40 outcome indicators shall be consistent with the federal child and

1 family service review measures and standards for child and family  
2 outcomes and system factors authorized by Subtitle B (commencing  
3 with Section 421) and Subtitle E (commencing with Section 470)  
4 of Title IV of the federal Social Security Act and the regulations  
5 adopted pursuant to those provisions (Parts 1355 to 1357, inclusive,  
6 of Title 45 of the Code of Federal Regulations).

7 (2) During the first review cycle pursuant to this section, each  
8 county shall be reviewed according to the outcome indicators  
9 established for the California Child and Family Service Review  
10 System.

11 (3) For subsequent reviews, the workgroup shall consider  
12 whether to establish additional outcome indicators that support the  
13 federal outcomes and any program improvement plan, and promote  
14 good health, mental health, behavioral, educational, and other  
15 relevant outcomes for children and families in California's child  
16 welfare services system.

17 (4) The workgroup shall convene as necessary to update the  
18 outcome indicators described in paragraph (1).

19 (5) The county improvement plans developed pursuant to this  
20 section that are approved by the county board of supervisors shall  
21 include a separately titled provision that lists and provides the  
22 rationale for proposed operational improvements identified during  
23 the stakeholder process described in paragraph (2) of subdivision  
24 (c) that may be implemented at a cost savings to the county or  
25 within existing county resources.

26 (e) The State Department of Social Services shall identify and  
27 promote the replication of best practices in child welfare service  
28 delivery to achieve the measurable outcomes established pursuant  
29 to subdivision (d).

30 (f) Notwithstanding Section 10231.5 of the Government Code,  
31 the State Department of Social Services shall provide information  
32 to the Assembly Committee on Budget and the Senate Committee  
33 on Budget and Fiscal Review and appropriate legislative policy  
34 committees annually, beginning with the 2002–03 fiscal year, on  
35 all of the following:

36 (1) The department's progress in planning for the federal child  
37 and family service review to be conducted by the United States  
38 Department of Health and Human Services and, upon completion  
39 of the federal review, the findings of that review, the state's

1 response to the findings, and the details of any program  
2 improvement plan entered into by the state.

3 (2) The department's progress in implementing the California  
4 child and family service reviews, including, but not limited to, the  
5 timelines for implementation, the process to be used, and any  
6 funding or staffing increases needed at the state or local level to  
7 implement the requirements of this section.

8 (3) The findings and recommendations for child welfare system  
9 improvements identified in county self-assessments and county  
10 system improvement plans, including information on common  
11 statutory, regulatory, or fiscal barriers identified as inhibiting  
12 system improvements, any recommendations to overcome those  
13 barriers, and, as applicable, information regarding the allocation  
14 and use of the moneys provided to counties pursuant to subdivision  
15 (i).

16 (g) Effective April 1, 2003, the existing county compliance  
17 review system shall be suspended to provide to the State  
18 Department of Social Services sufficient lead time to provide  
19 training and technical assistance to counties for the preparation  
20 necessary to transition to the new child and family service review  
21 system.

22 (h) Beginning January 1, 2004, the department shall commence  
23 individual child and family service reviews of California counties.  
24 County child welfare systems that do not meet the established  
25 compliance thresholds for the outcome measures that are reviewed  
26 shall receive technical assistance from teams made up of state and  
27 peer-county administrators to assist with implementing best  
28 practices to improve their performance and make progress toward  
29 meeting established levels of compliance.

30 (i) (1) To the extent that funds are appropriated in the annual  
31 Budget Act to enable counties to implement approaches to  
32 improving their performance on the outcome indicators under this  
33 section, the department, in consultation with counties, shall  
34 establish a process for allocating the funds to counties.

35 (2) The allocation process shall take into account, at a minimum,  
36 the extent to which the proposed funding would be used for  
37 activities that are reasonably expected to help the county make  
38 progress toward the outcome indicators established pursuant to  
39 this section, and the extent to which county funding for the Child

1 Abuse, Prevention and Treatment program is aligned with the  
2 outcome indicators.

3 (3) To the extent possible, a county shall use funds in a manner  
4 that enables the county to access additional federal, state, and local  
5 funds from other available sources. However, a county's ability  
6 to receive additional matching funds from these sources shall not  
7 be a determining factor in the allocation process established  
8 pursuant to this subdivision.

9 (4) The department shall provide information to the appropriate  
10 committees of the Legislature on the process established pursuant  
11 to this subdivision for allocating funds to counties.

12 (j) (1) Counties shall continue to be responsible for and  
13 accountable to the department for child welfare program  
14 performance measures, including all of the following:

15 (A) The outcome and systemic factor measures contained in the  
16 federal Department of Health and Human Services Child and  
17 Family Services Review Procedures Manual, Appendix B, Index  
18 of Outcomes and Systemic Factors, and Associated Items and Data  
19 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)  
20 of Title 45 of the Code of Federal Regulations.

21 (B) Information and other requirements necessary for the  
22 California Child and Family Service Review System, as required  
23 pursuant to this section.

24 (C) Monthly caseworker visits with a child in care.

25 (D) Timeliness to begin an investigation of allegations of child  
26 abuse or neglect.

27 (E) Notwithstanding the rulemaking provisions of the  
28 Administrative Procedure Act (Chapter 3.5 (commencing with  
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
30 Code), other performance measures resulting from new federal  
31 mandates or court decrees as specified in an all-county letter issued  
32 by the department.

33 (2) The department shall monitor, on an ongoing basis, county  
34 performance on the measures specified in paragraph (1).

35 (3) At least once every five years, the department shall conduct  
36 a comprehensive review of county performance on the measures  
37 specified in paragraph (1).

38 (4) (A) The department shall periodically update the process  
39 guides utilized by counties to prepare the self assessments and

1 system improvement plans to promote implementation and  
2 evaluation of promising practices and use of data.

3 (B) The process guides also shall include, but not be limited to,  
4 both of the following:

5 (i) County evaluation of demographics for the children and  
6 families served and effectiveness of the system improvement  
7 activities for these populations.

8 (ii) A description of the process by which the department and  
9 counties shall develop mutually agreed upon performance targets  
10 for improvement.

11 (5) The department, in consultation with counties, shall develop  
12 a process for resolving any disputes regarding the establishment  
13 of appropriate targets pursuant to the process provided in paragraph  
14 (4).

15 (6) A county shall submit an update to the department, no less  
16 than annually, on its progress in achieving improvements from the  
17 county's baseline for the applicable measure. The department may  
18 require a county that has not met its performance targets to submit  
19 and implement a corrective action plan, as determined by the  
20 director.

21 (k) Beginning in the 2011–12 fiscal year, and for each fiscal  
22 year thereafter, funding and expenditures for programs and  
23 activities required under this section shall be in accordance with  
24 the requirements provided in Sections 30025 and 30026.5 of the  
25 Government Code.

26 ~~SEC. 9:~~

27 *SEC. 7.* Section 10850.4 of the Welfare and Institutions Code  
28 is amended to read:

29 10850.4. (a) Within five business days of learning that a child  
30 fatality has occurred in the county and that there is a reasonable  
31 suspicion that the fatality was caused by abuse or neglect, the  
32 custodian of records for the county child welfare agency, upon  
33 request, shall release the following information:

34 (1) The age and gender of the child.

35 (2) The date of death.

36 (3) Whether the child was in foster care or in the home of his  
37 or her parent or guardian at the time of death.

38 (4) Whether an investigation is being conducted by a law  
39 enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:



1 (A) Records pertaining to the foster parents' initial licensing  
2 and renewals and type of license or licenses held, if in the case  
3 file.

4 (B) All reported licensing violations, including notices of action,  
5 if in the case file.

6 (C) Records of the training completed by the foster parents, if  
7 in the case file.

8 (d) The documents listed in subdivision (c) shall be released to  
9 the public by the custodian of records within 10 business days of  
10 the request or the disposition of the investigation, whichever is  
11 later.

12 (e) (1) Prior to releasing any document pursuant to subdivision  
13 (c), the custodian of records shall redact the following information:

14 (A) The names, addresses, telephone numbers, ethnicity,  
15 religion, or any other identifying information of any person or  
16 institution, other than the county or the State Department of Social  
17 Services, that is mentioned in the documents listed in paragraphs  
18 (2) and (3) of subdivision (c).

19 (B) Any information that would, after consultation with the  
20 district attorney, jeopardize a criminal investigation or proceeding.

21 (C) Any information that is privileged, confidential, or not  
22 subject to disclosure pursuant to any other state or federal law.

23 (2) (A) The State Department of Social Services shall  
24 promulgate a regulation listing the laws described in subparagraph  
25 (C) of paragraph (1) and setting forth standards governing  
26 redactions.

27 (B) Notwithstanding the rulemaking provisions of the  
28 Administrative Procedure Act (Chapter 3.5 (commencing with  
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
30 Code), until emergency regulations are filed with the Secretary of  
31 State, the State Department of Social Services may implement the  
32 changes made to Section 827 and this section at the 2007–08  
33 Regular Session of the Legislature through all-county letters or  
34 similar instructions from the director. The department shall adopt  
35 as emergency regulations, as necessary to implement those changes,  
36 no later than January 1, 2009.

37 (C) The adoption of regulations pursuant to this paragraph shall  
38 be deemed to be an emergency necessary for the immediate  
39 preservation of the public peace, health, safety, or general welfare.  
40 The emergency regulations authorized by this section shall be

1 exempt from review by the Office of Administrative Law. The  
2 emergency regulations authorized by this section shall be submitted  
3 for filing with the Secretary of State and shall remain in effect for  
4 no more than 180 days, by which time the final regulations shall  
5 be adopted.

6 (f) Upon receiving a request for the documents listed in  
7 subdivision (c), the custodian of records shall notify and provide  
8 a copy of the request upon counsel for any child who is directly  
9 or indirectly connected to the juvenile case file. If counsel for a  
10 child, including the deceased child or any sibling of the deceased  
11 child, objects to the release of any part of the documents listed in  
12 paragraphs (2) and (3) of subdivision (c), they may petition the  
13 juvenile court for relief to prevent the release of any document or  
14 part of a document requested pursuant to paragraph (2) of  
15 subdivision (a) of Section 827.

16 (g) Documents from the juvenile case file, other than those listed  
17 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed  
18 upon an order by the juvenile court pursuant to Section 827.

19 (h) Once documents pursuant to this section have been released  
20 by the custodian of records, the State Department of Social  
21 Services, the county welfare department or agency, and any county  
22 child welfare social worker, may comment on the case within the  
23 scope of the release.

24 (i) Information released by a custodian of records consistent  
25 with the requirements of this section does not require prior notice  
26 to any other individual.

27 (j) Each county welfare department or agency shall notify the  
28 State Department of Social Services of every child fatality that  
29 occurred within its jurisdiction that was the result of child abuse  
30 or neglect. Based on these notices and any other relevant  
31 information in the State Department of Social Services' possession,  
32 the department shall annually issue a report identifying the child  
33 fatalities and any systemic issues or patterns revealed by the notices  
34 and other relevant information. The State Department of Social  
35 Services, after consultation with interested stakeholders, shall  
36 provide instructions by an all-county letter regarding the procedure  
37 for notification.

38 (k) For purposes of this section, the following definitions apply:

39 (1) "Child abuse or neglect" has the same meaning as defined  
40 in Section 11165.6 of the Penal Code.

1 (2) “Custodian of records,” for the purposes of this section and  
2 paragraph (2) of subdivision (a) of Section 827, means the county  
3 welfare department or agency.

4 (3) “Juvenile case files” or “case files” include any juvenile  
5 court files, as defined in Rule 5.552 of the California Rules of  
6 Court, and any county child welfare department or agency or State  
7 Department of Social Services records regardless of whether they  
8 are maintained electronically or in paper form.

9 (4) “Substantiated” has the same meaning as defined in Section  
10 11165.12 of the Penal Code.

11 (l) A person disclosing juvenile case file information as required  
12 by this section shall not be subject to suit in civil or criminal  
13 proceedings for complying with the requirements of this section.

14 (m) This section shall apply only to deaths that occur on or after  
15 January 1, 2008.

16 (n) Nothing in this section shall require a custodian of records  
17 to retain documents beyond any date otherwise required by law.

18 (o) Nothing in this section shall be construed as requiring a  
19 custodian of records to obtain documents not in the case file.

20 ~~SEC. 10.~~

21 *SEC. 8.* No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution for certain  
23 costs that may be incurred by a local agency or school district  
24 because, in that regard, this act creates a new crime or infraction,  
25 eliminates a crime or infraction, or changes the penalty for a crime  
26 or infraction, within the meaning of Section 17556 of the  
27 Government Code, or changes the definition of a crime within the  
28 meaning of Section 6 of Article XIII B of the California  
29 Constitution.

30 However, if the Commission on State Mandates determines that  
31 this act contains other costs mandated by the state, reimbursement  
32 to local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.